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**The Present Insurance Situation from
an Insurance Superintendent's
Viewpoint**

AN ADDRESS

Delivered before the Ninetieth Meeting


OF

The Insurance Society of New York

BY THE

Hon. WILLIAM TEMPLE EMMET

Superintendent of Insurance, State of New York,
on Tuesday evening, October twenty-
eighth, Nineteen hundred and
thirteen, at the Aldine Club



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THE PRESENT INSURANCE SITUATION
FROM AN INSURANCE SUPERIN-
TENDENT'S VIEWPOINT

I regard it, I can assure you, as a very great honor indeed to be asked to attend this dinner as a guest of The Insurance Society. The scope and jurisdiction of your Society, as I understand it, is about as broad as that of the State Insurance Department,—of which I have the honor for the moment, to be the official head. You take in all the different kinds of insurance, just as we do. I think we have the better or the worse of you, though, in one respect: we have the vast fraternal field on our hands, in addition to all the rest. And let me assure you that upon those rare moments when no voice is heard at Albany putting some question, or propounding some problem, in connection with either life insurance, fire insurance, or casualty insurance, our friends the fraternalists are usually on hand to prevent the Insurance Department from sinking into a condition of innocuous desuetude.

To what subject shall I address myself in the short time that I should occupy here this evening? There are, of course, plenty of pending questions relating to one or another of the three large insurance subdivisions — the life, the fire, and the casualty fields — any one of which I suppose I might talk about. It has occurred to me, though, that in addressing a Society which embraces all these fields, it might be better on the whole to steer clear of all specific problems — most of which I have talked about on other occasions, anyhow, in the recent past — and try to give you instead a general, if necessarily rather sketchy, *resume* of the whole insurance situation in New York as it strikes me after nearly two years of service as State Superintendent of Insurance.

Let us take life insurance first. I won't remind you how, seven or eight years ago, departments of insurance supervision and legislative halls — not to speak of newspapers, lecture platforms, campaign hustings and all the other agencies by which publicity in America is secured — rang with denunciation of the manner in which the business of life insurance was being conducted here, and with proposals for sweeping reforms. That harsh criticism is for the most part stilled, and one listens in vain for further public outcry in favor of new and drastic legislation. So to-night I have very little news for you about life insurance, and it is one of the cases where no news means good news. I have no thunderbolts to launch against existing abuses in the life insurance field,

no proposals for new legislation to advance. I couldn't for the life of me think of any particularly reprehensible practice, of a general character, connected with the business of life insurance, at which my thunder-bolts could with any fairness be directed, nor do I see what possible legislation I could propose at the present moment which would materially improve the business in the slightest degree. What legislation we now have on the statute books is entirely adequate, so far as I can see, to accomplish, in the life field, all the good that legislation is capable under any circumstances of accomplishing. The fact is that the house cleaning some years since settled nearly all our old life insurance problems completely and permanently. There were personal tragedies connected with that epoch-making event which cause people sometimes to wish that it had never happened, but the results have justified it, after all. The business of life insurance in the United States as conducted to-day by all the large and responsible companies stands upon a splendidly secure foundation. Most of the technical questions relating to the business have been solved, and solved for all time. It is a standardized business. It has ceased to be a speculative business. The policy contracts issued by the great companies are as safe as if the credit of the government were behind them. Of course, little points arise from time to time which require the attention of legislatures and insurance departments, but broadly speaking it may be said that the life insurance business is now in a condition where the chief ability required by those who are conducting it is the ability to conserve and protect the great achievements of the past, not the ability to strike out new paths to be followed in the future. The business of life insurance in America has cast off its swaddling clothes, it has sown its wild oats, it has reached man's estate. The great life insurance organisms of the country are national assets of which we may be justly proud. The good that they have accomplished in their encouragement of thrift and in the genuine protection they are rapidly extending to every family in this broad land against some of the hardships which ensue when death calls the family breadwinner from his labors, is simply incalculable. Long live the institution of life insurance as it now exists in America! Thoughtful people will agree, I think, in saying of it "Esto perpetua!"

Next we come to fire insurance. So far as the responsible and honorable character of the men who are leaders in this branch of insurance is concerned, there is nothing that can be said about the life insurance men which does not apply with equal truth to the leaders in the fire insurance field. It is quite as honorable a

calling as the other, and even a more ancient one. But speaking as a supervising official who by virtue of his office necessarily has to keep his finger more or less constantly on the public pulse, I cannot truthfully say that the happy conditions — with respect, I mean, to the probability of future agitations on the part of the public — which I have depicted in relation to life insurance, exist in anything like the same measure in the fire field. It is inevitable, I suppose, that this should be so. The leaders in the fire insurance business must simply make up their minds to encounter cheerfully, and with a good heart, the annoyance and inconvenience which invariably accompany the more or less bungling attempts of the people in their organized capacity to solve highly technical questions by governmental means. I shall not go into this subject at length to-night, because I have very recently expressed myself upon it quite fully, in a speech before the National Association of Local Fire Insurance Agents, at Cincinnati. I may say though, for the information of those who have not seen what I recently wrote on the subject, that the particular matter I am now referring to is the likelihood of further agitation in favor of some sort of governmental control over fire insurance rates. There is no popular curiosity whatever at the present time over life insurance rates, for the obvious reason that these are based upon mortality tables so exact and scientific as to foreclose the possibility of any serious discussion over the question how much reliance should be placed upon them. Over fire insurance rates, on the other hand, there exists the liveliest possible amount of popular curiosity and controversy — for the equally obvious reason that the public is completely in the dark as to how these rates are arrived at. That is a condition in which nowadays the public absolutely declines to be left, particularly when the situation is one into which monopolistic influences to a degree have crept, and the old competitive spirit has to some extent died out. It is true that many men who are well qualified to express an opinion on this subject say that this condition of popular ignorance can never be materially altered so far as fire insurance rate-making is concerned, because they say that this is something which can never be reduced to an exact science, that it must always depend in the last analysis upon the judgment of experts, and that, therefore, it can never be explained to the satisfaction of the public. I certainly don't propose to argue that matter here to-night. I merely mention the existence of the problem to show why it is that the ancient and honorable business of fire insurance to-day occupies a position, in the forum of public opinion, quite distinct from that which the business of life insurance occupies.

However, it is only in regard to this one matter of rate-making that I apprehend much future agitation in connection with fire insurance. If only some way could have been found in the past to initiate the public, no matter how superficially, into the secrets of the art of fire insurance rate-making — if only some way could be found now to explain the situation in such a manner that the public would have a just appreciation of its inherent difficulties — the fire insurance business would occupy a position where it was less likely to be interfered with by governmental action than almost any other business I know of. So far as I have been able to observe, the public are not in the least concerned at present with the question of the solvency of fire companies they insure in. They are not in the least excited over matters of detail respecting the management of these companies. The great companies doing business here have literally gone through the fire so often, and have emerged from it so safely and soundly, that people look on them nowadays as veritable Rocks of Gibraltar, so far as their ability to pay losses is concerned. And they are justified in so regarding them. Insurance supervision in its relation to fire insurance companies has in consequence, until very recently, been a simple and primitive sort of thing compared with the kind of supervision to which life insurance companies have been subjected. I suppose that one reason for this is that before ever insurance supervision became the recognized function of government which it now is, the business of fire insurance was on a pretty solid basis in respect to the observance of certain fundamental principles of fair dealing with the public. It has been a long time, for instance, since fire companies followed the rule — still prevalent in some other lines of insurance — of compelling their policyholders in too many cases to prosecute their claims in the courts before these claims would be paid by the companies. It has been the invariable practice of all reputable fire companies for many years past, so far as I know, to pay the just claims of their policyholders promptly, without lawsuit and at the full figure at which the actual loss has been appraised. Instances of deliberate resort to litigation or unfair appraisements of loss, in order to compel policyholders to take less than they ought to receive, have of late years been so few that this question of the attitude of fire insurance companies toward their policyholders in the matter of payment of claims can scarcely be said to exist at all, from an insurance commissioner's standpoint. I am mentioning all this simply to illustrate what I mean when I say that but for the one question of how fire insurance rates are arrived at, and as to whether these are just or not, the fire insurance companies would have

little to apprehend in the way of governmental interference with their business. And I hope I may be permitted here to repeat the hope I expressed in my Cincinnati remarks the other day, that the leading men in the fire insurance business will recognize the inevitability, and on the whole the propriety, of some further effort on the part of the people in their organized capacity to reach a just solution of the problem of fire insurance rate-making and that instead of trying to delay the fullest and most public discussion of the entire question, they will seek to co-operate with the representatives of the people in solving this question to the satisfaction of reasonable-minded men. (I realize perfectly well, of course, that neither this nor any other similar question can ever be solved to the satisfaction of the *unthinking* portion of the public, which usually sees no further than its own nose in matters of this kind, and which cares mighty little, I am sorry to say, about right principles of conduct on the part of the State in its dealing with what is invidiously called Big Business. But these people are in the minority — we must never forget that! Blatherskite government is not to be feared here, as a steady thing. And even blatherskites sometimes have their mysterious uses. To think otherwise would be to despair of our country indeed!)

So much, at all events, for my impression as to what the immediate future has in store, in the way of insurance legislation, for those engaged in the business of life insurance and the business of fire insurance. In the one case, there is nothing more to be done at present, so far as I can see, but to hold on to the good which has already been accomplished, with as few changes in the law as possible. In the other case, there is this vexatious question of rate-making to be disposed of in some manner that will be entirely just to the public and fair to the business of fire insurance in private hands. This brings us to the third and last great subdivision of the insurance field, the business of casualty insurance — and this, I may as well frankly say, is, from a departmental point of view, a horse of a very different color from either of the other two that we have been talking about.

I needn't tell you that I am not making a statement of this sort in any unfriendly spirit. The larger casualty companies are not only conducting their business in strict accordance with existing law, but are also, in many cases, voluntarily establishing greater safeguards for their policyholders than the law now prescribes. The problems which from an insurance department standpoint casualty insurance presents, are due entirely to the fact that the field is a comparatively new and uncharted one. The business is very far from having become an exact science like life

insurance. No such combined "experience" stretching back over years has been gathered in the casualty field as is possessed by the practical men in the ancient field of fire insurance. In the collection of valuable casualty experience, however, progress is constantly being made; although as an offset against this, one notes the fact that the passage of workmen's compensation laws in many States of the Union is creating such new condition, in one important branch of casualty insurance at least, that much of the earlier experience, gathered under conditions which have ceased to exist, is now proving of very little value. But, from the standpoint of the future dependability of what we now call employers' liability insurance, it should be said that the general adoption of the principle of workmen's compensation will probably do more to standardize the business, and make it absolutely safe, than anything that has yet happened.

In my last annual report to the Legislature I called attention to the fact that, if insurance by stock casualty companies was to be availed of generally in the compensation plans of the different States, it was essential that the companies engaged in this business should, in certain particulars, set their houses in order without further delay. Quite recently, I have been trying to help the companies do this by issuing what some regard as a rather dictatorial order, to the effect that the acquisition expenses of liability companies doing business in the State of New York shall be kept down to 20 per cent. of the premiums collected. The necessity for some such rigid rule as this was indelibly impressed upon my mind by the experience we had last winter in Albany in trying to secure the passage of a sensible, satisfactory Workmen's Compensation Law. The bitter criticisms of the liability companies made by the opponents of our measure largely centered about this question of the exorbitant sums the companies were paying for the getting of new business. While the demand for out-and-out State insurance which was predicted upon this condition of affairs seemed to me to be both unnecessary and foolish, there was, notwithstanding, a certain amount of truth in the charges that were made against the companies, of wastefulness in this particular, and it is my belief that unless a pretty radical change for the better occurs, the demand for State Insurance in connection with any Workmen's Compensation Law that is passed will become so strong that stock company insurance in this branch of the business will be swept out of existence as the result of it. And this I think would be a calamity, looking at the matter entirely from the standpoint of the public good.

Let me admit at once that there is no specific law on the

statute books requiring companies to keep their acquisition expenses down to 20 per cent. of their premiums. Let me admit, also, that this matter of acquisition expenses is not the only matter connected with their business that casualty insurance men should give consideration to. I sympathize to a very considerable extent with the outraged feelings of some of the agents and brokers over this compulsory reduction of the acquisition expenses of companies, but a start has to be made somewhere, and these gentlemen can rest assured that before the house cleaning in this branch of the insurance business has been completed the companies will probably effect economies in other directions as well as in this one. I think it highly likely that, as matters now stand, unless the companies voluntarily reduce the total cost of the transaction of their business,—not merely the cost of acquisition,—legislation will be proposed which will compel this to be done. I think, too, that if liability insurance is to continue to remain in private hands there must be an abandonment by all reputable companies of the niggardly and controversial attitude which some companies have adopted in their negotiations with the injured employees of those whom they insure. The practice which exists in the fire insurance world in this particular is a pretty good model to follow. And there are other things which will have to be done—such things, for instance, as the maintenance of stronger reserves than the law now requires. Reforms along these lines are absolutely essential, I think, for the preservation of the business of casualty insurance and the protection of policyholders. They are suggested in no carping spirit, but with an honest and sincere desire to promote the welfare of the business to the fullest possible extent. And I am proud to say that the views which I have expressed along these lines have met with practically unanimous approval from the men in the business who are best qualified to know its present needs.

Now let me say a word regarding the spirit in which I think that matters of this kind ought to be approached by those, like myself, who are charged with responsibilities in the field of insurance supervision. As I have frequently said, I am no advocate of strict insurance supervision as such. There should be just as little of it as we can possibly get along with. Insurance supervision, as I look at it, is not primarily intended for the strong, well-established companies at all. Its primary purpose is to shut out the frauds and cheats and fly-by-nights from trying to sell worthless insurance to credulous people. But, of course, it is impracticable to draw any line of distinction between companies which might safely be allowed to paddle their own canoes, and

companies which have to be watched closely. Any rules that are laid down must apply to all alike. For that reason, the strong companies should willingly undergo what sometimes may seem to them to be unnecessary exactions on the part of government. I am inclined to think that even the best managed companies find that the co-operation they get from the stronger State insurance departments in their efforts to solve the outstanding insurance problems which still await a settlement, is of material assistance to them.

Insurance departments should, of course, be controlled, in their relations with the companies, by the laws of the land and not by the whims of ambitious supervisory officials. When a man becomes an insurance superintendent, he may as well understand at the beginning that no additional inches have been added to his stature by virtue of that fact; and if he has much regard for his oath of office, or for his standing as a sensible man, he will be very much on his guard at all times against the dangerous practice of pushing his brief official authority to its uttermost limit in an effort to impose upon a great business about which his actual knowledge based upon experience is probably of the slightest, views or ideas which the law does not sanction, and which upon analysis may prove after all to be half-baked. On the other hand, no insurance superintendent who is worth his salt will be afraid, where the fundamental question of solvency is involved, and where there is practically a unanimous sentiment among thoughtful men in the business in favor of quick remedial action — I say no insurance superintendent who is worth his salt will be afraid, under these circumstances, to rely upon the general authority which can be found in the Insurance Laws of most States, to bring about in a somewhat summary fashion the changes he deems necessary. He will accomplish this by an exercise of some of the far-reaching discretionary powers with which nearly every insurance commissioner is vested. The test, in my judgment, is simply as to whether or not, in any given instance, circumstances have arisen which really require immediate action in advance of the passage of specific remedial legislation. It has seemed to me that this is the real situation in the liability field to-day; and this is the reason, and the only reason, why I issued our recent departmental instructions on the subject of the acquisition expenses of liability companies. I am perfectly willing that anyone who desires to do so shall test my authority to issue these instructions, in the courts. If the courts say that I have no right to issue them, I will withdraw them. But nobody has yet taken the matter into the courts, and, if these instructions are going to

be allowed to stand as issued, and if they are cheerfully accepted by all concerned, I am confident that a large measure of good will result, and that the need for future drastic legislation will to a large extent have been averted.

My hope, in other words, has been to clear up the situation in the casualty world by prompt departmental action, rather than to let matters drift until this great branch of insurance is shaken to its foundations by another Hughes investigation and by all the sad results which follow more or less inevitably in the train of such an event. There is nothing in all this which should occasion the least alarm to anyone. Casualty insurance, and more particularly employers' liability insurance, is simply passing through the same formative, creative, pioneer period that life insurance and fire insurance had to pass through. With all the new forms of insurance protection that are being devised daily, covering new hazards against which the public wishes to be protected, it would have been too much for the companies transacting this business to have expected that they would find any broad highway stretching out in front of them which they could travel free from difficulties. Pioneers can't expect immunity from the uncertainties which fall to the lot of all explorers of new territory. The main thing is that the men in control—the leaders of the advance guard who are clearing the way for future generations to follow—shall be men of courage and character and wisdom. It can truthfully be said of the casualty leaders to-day that they are men of that kind. They are performing a most difficult piece of work and it is a privilege to be associated with them in it, even briefly.

That in fact is how I feel about all the innumerable opportunities for useful public activity which have opened to me during my term of service as insurance superintendent of New York. The experience has been one of absorbing interest—an experience which I shall always value very highly, and which I shall never by any possible chance forget.



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